

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COUNTY OF NEWPORT**

APPROVED 2/22/10

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 8th day of February 2010 A.D. at 7:00 p.m.

President Bollin opened the meeting with the Pledge of Allegiance to the Flag.

Roll Call:	Donald Bollin-President	Jay Lambert
	JoAnne Arruda-Vice President	Cecil E. Leonard
	Hannibal Costa -Absent	Edward Roderick
	Louise Durfee	

Town Administrator, James C. Goncalo and Town Solicitor, Andrew M. Teitz were also present.

Approval of Consent Agenda:

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council President Bollin read the items on the Consent Agenda.

Councilor Durfee requested removal of item A-4, Communication of Internal Control Deficiencies Report from the Auditor.

Councilor Leonard made a motion, seconded by Councilor Roderick to approve the remaining items on the Consent Agenda. Motion passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA:

A-1-Approval of Minutes of Previous Meetings:

- a. Approval of Minutes from Council Workshop January 19, 2010
- b. Approval of Executive Session Minutes January 11, 2010 Meeting
- c. Approval of Executive Session Minutes January 25, 2010 Meeting

A-2-Receipt of Minutes from Various Board and Commissions:

- | | |
|---------------------------|--------------------------|
| a. Tiverton Art's Council | c. Open Space Commission |
| b. Harbor Commission | d. Planning Board (2) |

A-3-Correspondence:

- a. Received from Town of North Kingstown – Resolution Supporting Purchase of Memorial Brick – National Guard Living Memorial at RI Veteran's Cemetery in Exeter
- b. Received from Town of Jamestown – Resolution Opposing Proposed Amendments to Madeline Walker Bill
- c. Received From City of Woonsocket – Resolution Requesting Support of General Assembly to Enact Legislation Requiring Public Employees to Pay Minimum of Twenty-five Percent Healthcare Costs

A-5-Received From Treasurer – Report on Sewer Interceptor Bond

A-6-Received from Hoffman Engineering – Bay Street Residential Remediation Weekly Meeting Minutes from January 19, 2010

Received From Treasurer – Communication of Internal Control Deficiencies Report From Auditor Parmelee, Poirier & Associates

Councilor Durfee, at the last Council Meeting, asked the Auditor to explain the wide variance in longevity charges. Effectively learned longevity was double charged, expected receiving an analysis, wanted to know a total amount of discrepancy. Treasurer DiMattia noted Administrator Goncalo had received an explanation. Admin.

Goncalo estimated \$35,000; Councilor Durfee's estimate was closer to \$117,000. Admin. Goncalo has asked the Audit Manager for details. Councilor Durfee was concerned this indicates the Town has more surplus than indicated; the financial statements are not accurate. Hoping the control deficiencies are corrected. This is a major misstatement; need to take action to correct. Councilor Roderick asked for an amended statement, Councilor Leonard agreed noting external people review when filed with Auditor General's Office. Admin. Goncalo was waiting to talk to the Auditor to schedule a meeting. Treasurer DiMattia had received an email, the auditor reluctant to issue amended statements wanting to make the adjustment in next year, felt it was materially, only in budget report.

Councilor Durfee made a motion, seconded by Councilor Roderick to continue this to the next meeting. Motion passed unanimously. Councilor Bollin stated looking forward to report next Council meeting.

PUBLIC HEARINGS- ADVERTISED

Flood Plain Management Ordinance - Town Code Amendment to Chapter 67

a. Planning Board Report on Draft Town Code Amendment

Council President Bollin opened the Public Hearing for comment on the Flood Plain Management Ordinance. Comments were in favor of the Ordinance, very important as it relates to mortgages and insurance, would like to see the flood plain maps connected with the GIS system on the Town website. Town Solicitor Andy Teitz noted the draft amendment was used from a model provided by the Federal Government. Councilor Durfee suggested specific language for Section 67-5, Use Regulations, letter (a) insert right after *must be in compliance with all other local, state and federal regulations including but not limited to* the following:

Gareth Eames informed public he and Town Planner have been discussing overlaying with GIS system. Doesn't seem to be a problem, assessing costs involved.

There being no further comments, President Bollin closed the Public Hearing at this time.

Councilor Durfee made a motion to adopt the proposed ordinance as a new chapter to the Town Code as amended. Seconded by Councilor Leonard motion passed unanimously.

Councilor Roderick made a motion, seconded by Leonard to enact the Zoning Ordinance Amendment. Motion passed unanimously.

See end of the minutes for ordinance.

The Town Council was sitting as the Board of Licensing Commissioners:

BOARD OF LICENSING COMMISSIONERS AND PUBLIC HEARINGS:

Robert W. Ramos, 654 Penn St, Fall River, Ma - Request Approval of Private Detective License – Subject to Meeting All Legal Requirements

Chief Blakey recommended approval of this license.

Councilor Leonard made a motion, seconded by Councilor Durfee to approve the renewal of a Private Detective License to Robert W. Ramos, 654 Penn St., Fall River, MA, subject to meeting all legal requirements. Motion passed unanimously.

APPOINTMENTS & RESIGNATIONS:

Building Feasibility Committee – Schedule Council Interviews

Councilor Durfee made a motion, seconded by Councilor Roderick to continue the scheduling of Council interviews for the Building Feasibility Committee to the next meeting, February 22, 2010. Motion passed unanimously.

UNFINISHED BUSINESS:

Councilor Durfee – Treasurer’s December 2009 Budget and Revenue Report – Continued From January 25th Meeting

Councilor Durfee suggested in view of receiving January budget report this evening continuing this item to next meeting.

Councilor Leonard made a motion, seconded by Councilor Arruda, to continue the discussion of the December 2009 budget and revenue reports to February 22,2010. Motion passed unanimously.

Town Solicitor/Town Administrator – Town of Westerly Resolution Regarding Unfunded Mandates – Continued From January 25th Meeting

Solicitor Teitz and Administrator Goncalo, at the request of Councilor Costa, reviewed the Westerly resolution regarding unfunded mandates and expressed support, no support or listed if it was not applicable.

Councilor Leonard motioned drafting a letter to the local legislators incorporating those that are supported.

Councilor Durfee suggested two of the mandates involve the school department and prior to Council response, the School Committee be served notice the Council has under consideration and advise the Council of their position. Councilor Durfee requested the Town Clerk send a letter to the School Committee along with a copy of the Westerly resolution.

Councilor Leonard withdrew his original motion and made a motion to continue to the next meeting after the School Committee has a chance to comment. Seconded by Councilor Roderick, motion passed unanimously.

NEW BUSINESS:

Gareth Eames - Proposed Adoption of Amendment to Fee Resolution – Request Scheduling of Public Hearing on March 8,2010

Gareth Eames, Zoning and Building Official, requested the Council schedule a Public Hearing on the proposed adoption of an amendment to the fee resolution. Proposed fees are amended to include newer technology such as wind turbines, solar panels, tent inspections, outdoor boilers, chimney liners, and gas tank installations. Fees will also correct anomaly lowering fee for gas permits and eliminating connection fee to align more with surrounding towns. There are no planned increases, just clearing up some technicalities, adding some new terms and realigning some of the fees.

Councilor Durfee made a motion, seconded by Councilor Leonard to schedule a Public Hearing on March 8,2010 on the proposed adoption of an amendment to the fee resolution. Motion passed unanimously.

Theresa Burke, Recreation Commission Co-coordinator – Request Permission to Advertise Summer Recreation Positions

Councilor Durfee made a motion, seconded by Councilor Arruda to authorize the advertising for summer recreation positions. Motion passed unanimously.

Attorney Jeremiah Leary, Representing John Hasenjaeger – Request Sewer Extension

a. Letter of Support from Economic Development Commission

b. Letter of Support from the Planning Board

c. Statement of Support from Wastewater Management Commission

Town Clerk, Nancy Mello, received a letter from Atty. Leary requesting the sewer extension item be continued to the next meeting.

Councilor Leonard made a motion, seconded by Councilor Roderick to continue the sewer extension request to February 22,2010. Motion passed unanimously.

Tiverton Planning Board – Request for a Moratorium on Permits for Wind Energy Generators/Turbines

Stephen Hughes, Planning Board Chairman requested a moratorium on permits for wind generators or turbines until the Planning Board can recommend the appropriate amendments to the Town Code. Currently there is no ordinance in place specific to wind energy generators or turbines. Gareth Eames, Building Official, supported the request for a moratorium. At this time there is one permit for Sandywoods Farm, which should be exempt from the moratorium. The Planning Board also has one request for construction. Councilor Durfee questioned the possible need for a public hearing to allow comment. Councilor Leonard noted there are no real regulations, the moratorium would be temporary, and then would go to a public hearing. Solicitor Teitz suggested, if Council supports a moratorium, 30-day would probably be useful.

Stuart Hardy, Planning Board Member, noted the Planning Board with Peter Moniz as lead, was working on the ordinance, wanted to get it to the Council as soon as possible, probably in three months.

Councilor Durfee made a motion to institute and order a temporary moratorium from this meeting to the first meeting in May the 10th, for the purpose of installation and construction of wind generators or turbines. Solicitor Teitz suggested the wording include except those who have received final approval or permitting from the Planning Board or Zoning Board. Councilor Durfee amended the motion to not affect wind installation or turbines that have received final approval by the Planning Board or Zoning Board to May 10, 2010. Seconded by Councilor Roderick the motion passed on a vote of 5-1, Councilor Leonard opposed.

Town Administrator – Request Council Ratification of a one-year Extension to the IBPO Contract

Administrator Goncalo requested a change to the memorandum of agreement to the IBPO contract extension submitted to the Council including striking out the first paragraph and in Article XI, Section 1-Salaries cross out *weekly*. Councilor Leonard wanted to clarify there were no increases with this agreement. The co-pays are a flat rate, not a percentage basis.

Councilor Leonard made a motion, seconded by Councilor Durfee to approve the extension to the IBPO contract for one-year to June 30, 2010. Motion passed unanimously.

Town Administrator – Request Council Ratification of a one-year Extension to the IAFF Contract

Administrator Goncalo requested a change to the memorandum of agreement to the IAFF contract extension submitted to the Council by striking the word *weekly*, in Article IX, Section 1-Salaries. Councilor Leonard, again to clarify, noted this extension does not include increases for pay or fringe benefits.

Councilor Leonard made a motion, seconded by Councilor Durfee to approve the IAFF contract extension to June 30, 2010. Motion passed unanimously.

TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

1. Third quarter tax notices, mailed out 244 for delinquencies. Quite useful, people coming in.
2. Right now, after the 3rd payment due, 75.11% collected, ahead of 2009 by .07% or \$23,732.
3. On Friday at 3:30 pm received an email from RI League of Cities & Towns commencing legal action on 3rd quarter Motor Vehicle Tax receipts. Asking the Council to ratify this action at the next meeting. Has tentatively submitted for Tiverton.
4. School expenses for Nonquit and Ranger schools totals 410,945. Nonquit heat only \$10,156, costs about \$100/day in oil. Possible issue with one boiler, considering repairs.
5. GIS system, since linked to the website in December, went from 228 visitors in Dec. to 2,756 in January. At League Convention, strong movement for Town Halls at 24/7.
6. Police Grants doing very well. Will be receiving Federal and State Police grant for E-citation mobile terminals. \$60,000 for laptops and printers in all Police cruisers. Any money the Town spends goes towards a soft match.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Roderick questioned the Administrator about a financial stress rank assigned to the Town 3.48 out of 5. Appeared in an article in the Providence Journal. Administrator would look into formula and report back to Council.

TOWN SOLICITOR, ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Request to Unseal Executive Session Records by Tom Dalglish

a. Response From Town Solicitor

Solicitor Teitz had received a request under the Access to Public Records RIGL, Chapter 38 from Tom Dalglish, for Town Council Executive Session minutes to be unsealed regarding the Coulter litigation. Solicitor Teitz denied the request, has been no Council action, the Council initially considered. Until the minutes are unsealed by the Council, this request remains exempt from the Act.

Councilor Durfee was troubled by a portion leaked, irrelevant without full disclosure. Solicitor Teitz did not regard the leak as fair, still pending litigation, not requesting the Council unseal. There was discussion with the Town Clerk of a long-range plan with regards to unsealing executive session minutes once issues have been resolved.

CLOSED EXECUTIVE SESSION:

1. Town Solicitor - Litigation – 42-46-5(a) (2)

2. Town Administrator – 42-46-5(a)(6) – Prospective Business or Industry

Councilor Arruda made a motion, seconded by Councilor Leonard to enter into Executive Session pursuant to 42-46-5(a)(2)-Litigation. Motion passed unanimously.

Councilor Arruda made a motion, seconded by Councilor Leonard to remain in Executive Session pursuant to 42-46-5(a)(6)-Prospective Business or Industry. Motion passed unanimously.

The Council entered into Executive Session at approximately 8:00 p.m.

The Council returned to Open Session at approximately 8:40 p.m.

OPEN SESSION:

Council President Bollin announced no formal action had been taken in Executive Session.

Councilor Roderick motioned to seal the minutes of Executive Session, seconded by Councilor Arruda. Motion passed unanimously.

ADJOURNMENT:

Councilor Roderick motioned to adjourn, seconded by Councilor Arruda. Motion passed unanimously.

Council adjourned at approximately 8:45 p.m.

A True Copy.

ATTEST: _____ Nancy L. Mello, Town Clerk

Chapter 67. FLOOD PLAIN MANAGEMENT PROGRAM

Section 67-1. Statement of Purpose.

The purpose of this ordinance is to ensure public safety; minimize hazards to persons and property from flooding, to protect watercourses from encroachment, and to maintain the capability of floodplains to retain and carry off floodwaters. The Town of Tiverton elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

Section 67-2. Applicability.

The Special Flood Hazard Areas are herein established as a floodplain overlay district. The District includes all special flood hazard areas within the Town of Tiverton designated as Zone A, AE, AH, AO, A99, V, or VE on the

Newport County Flood Insurance Rate Map (FIRM) and Digital FIRM issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 100-year base flood elevations shown on the FIRM and further defined by the applicable Flood Insurance Study (FIS) report dated April 5, 2010. The FIRM and FIS report and any revisions thereto are incorporated herein by reference and are on file with the Building Official.

Section 67-3. Administrative Provisions.

(a) *Permit required.* All proposed construction or other development within a Special Flood Hazard Area shall require a permit.

If the construction or other development within a Special Flood Hazard Area is not covered by a building or other approved permit application, a flood hazard development permit shall be required. The application for a flood hazard development permit shall be submitted to the Building Official and shall include:

1. The name and address of the applicant;
2. An address or a map indicating the location of the construction site;
3. A site plan showing location of existing and proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and the dimensions of the lot;
4. A statement of the intended use of the structure;
5. A statement as to the type of sewage system proposed;
6. Specification of dimensions of the proposed structures;
7. The specific datum used for all elevations;
8. The elevation (in relation to mean sea level) of the lowest floor, including basement, and if the lowest floor is below grade on one or more sides, the elevation of the floor immediately above;
9. Base flood elevation data for all new, relocated or substantially improved structures;
10. The elevation (in relation to mean sea level) to which the structure will be floodproofed;
11. The description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

Prior to the issuance of a building or development permit, the applicant shall submit evidence that all necessary permits and approvals have been received from all government agencies from which approval is required by federal or state law.

A permit fee, which shall be established by Town Council resolution and based on the cost of the construction, shall be required to be paid to the Town of Tiverton and a copy of a receipt for the same shall accompany the application. An additional fee may be charged if the Building Official and/or board of appeals needs the assistance of a professional engineer.

(b) *Disclaimer of Liability.* The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

(c) *Severability.* If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.
Abrogation and Greater Restriction. This ordinance shall not in any way impair/remove the necessity of compliance with any other applicable laws, ordinances, regulations, etc. Where this ordinance imposes a greater restriction, the provisions of this ordinance shall control.

Section 67-4. Notification of Watercourse Alteration.

In a riverine situation, the Building Official shall notify the following of any alteration or relocation of a watercourse:

Town of Little Compton, RI
40 Commons, P.O. Box 226
Little Compton, RI 02837

City of Fall River, Massachusetts
One Government Center
Fall River, MA 02722

Town of Westport, Massachusetts
816 Main Road
Westport, MA 02790

NFIP State Coordinator
Rhode Island Emergency Management Agency
645 New London Avenue
Cranston, RI 02920

NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

The carrying capacity of the altered or relocated watercourse shall be maintained.

Section 67-5. Use Regulations.

(a) *Reference to Existing Regulations.* The Special Flood Hazard Areas are established as a floodplain district. All development in the district, including structural and non-structural activities, must be in compliance with all other local, state, & federal regulations including but not limited to the following:

Rhode Island State Building Code (SBC-1-2007 as established under Rhode Island General Law § 23-27.3);

Coastal Resources Management Program, Coastal Resource Management Council (RIGL § 46-23)
Freshwater Wetlands Act, Department of Environmental Management (RIGL § 46-23-6)

Minimum Standards Related to Individual Sewage Disposal Systems, Department of Environmental Management (RIGL § 46-12)

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

(b) *Other Use Regulations.*

- 1) Within Zones AH and AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- 2) Within Zone AO on the FIRM, new and substantially improved residential structures shall have their lowest floor at least as high as the FIRM's depth number above the highest adjacent grade and non-residential structures shall be elevated or flood-proofed above the highest adjacent grade to at least as high as the depth number on the FIRM. On FIRMs without a depth number for the AO Zone, structures shall be elevated or floodproofed to at least two feet above the highest adjacent grade.
- 3) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the FIRM or Flood Boundary & Floodway Map (44005C0037H, 44005C0039H, 44005C0102H, 44005C0103H, 44005C0104H, 44005C0108H, 44005C0111H, 44005C0112H) encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 4) All subdivision proposals must be designed to assure that:
 - a.) such proposals minimize flood damage;

- b.) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - c.) adequate drainage is provided to reduce exposure to flood hazards.
- 5) Detached accessory structures in Zones A, AE, A1-30, AO, and AH (i.e., garages, sheds) do not have to meet the elevation or dry flood-proofing requirement if the following standards are met:
- a.) The structure is no more than 100 square feet in size and has a value less than \$1000.
 - b.) The structure has unfinished interiors and must not be used for human habitation. An apartment, office or other finished space over a detached garage is considered human habitation and would require the structure to be elevated.
 - c.) The structure is used solely for parking of vehicles and/or limited storage.
 - d.) The accessory must be wet floodproofed and designed to allow for the automatic entry and exit of flood water.
 - e.) The accessory structure shall be firmly anchored to prevent flotation, collapse and lateral movement.
 - f.) Service facilities such as electrical, mechanical and heating equipment must be elevated or flood proofed to or above the base flood elevation.
 - g.) The structure must not increase the flood levels in the floodway.
- 6) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

(c) Base Flood Elevation and Floodway Data.

- 1) Floodway Data. In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2) Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or 5 acres, whichever is the lesser, within unnumbered A zones.
- 3) Base Flood Elevations in A Zones. In the absence of FEMA BFE data and floodway data, the best available Federal, State, local, or other BFE or floodway data shall be used as the basis for elevating residential and non-residential structures to or above the base flood level and for flood proofing non-residential structures to or above the base flood level.

Section 67-6. Definitions.

Unless specifically defined below, words and phrases used in this ordinance pertain to floodplain management, have the same meaning as they have in common usage and to give this ordinance it's most reasonable application.

Accessory Structure - A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of Shallow Flooding- A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard - see definition for "Special Flood Hazard Area".

Base Flood - The flood having a one (1) percent chance of being equaled or exceeded in any given year, also

referred to as the one hundred (100) year flood, as published by the Federal Emergency Management Agency (FEMA) as part of a Flood Insurance Study (FIS) and depicted on a Flood Insurance Rate Map (FIRM).

Base Flood Elevation (BFE) - The elevation of the crest of the base flood or 100-year flood. The height, as established in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum where specified), in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

Basement - Any area of the building having its floor subgrade (below ground level) on all sides.

Building - see definition for "Structure".

Cost - As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be excluded include: cost of plans and specifications, survey costs, permit fees, costs to correct code violations subsequent to a violation notice, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

Development - Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings or structures; the construction of additions, alterations or substantial improvements to buildings or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Existing Manufactured Home Park or Manufactured Home Subdivision - A manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an Existing Manufactured Home Park or Existing Manufactured Home Subdivision - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA) - The federal agency that administers the National Flood Insurance Program (NFIP).

Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) - The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas (100-year floodplain) and the insurance risk premium zones applicable to a community. FIRM published after January 1990 may also show the limits of the regulatory floodway.

Flood Insurance Study (FIS) - The official study of a community in which the Federal Emergency Management

Agency (FEMA) has conducted a technical engineering evaluation and determination of local flood hazards, flood profiles and water surface elevations. The Flood Insurance Rate Maps (FIRM), which accompany the FIS, provide both flood insurance rate zones and base flood elevations, and may provide the regulatory floodway limits.

Flood Proofing - Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. For the purposes of these regulations, the term "Regulatory Floodway" is synonymous in meaning with the term "Floodway".

Functionally Dependent Use or Facility - A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

Highest Adjacent Grade (HAG) - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure - Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

Lowest Floor - The lowest floor of the lowest enclosed area (including basement).

Manufactured Home - A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles or transportable structures placed on a site for one hundred and eighty (180) consecutive days or longer and intended to be improved property.

Manufactured Home Park or Manufactured Home Subdivision - A parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.

Market Value - Market value is the price of a structure that a willing buyer and seller agree upon. This can be determined by an independent appraisal by a professional appraiser; the property's tax assessment, minus land value; the replacement cost minus depreciation of the structure; the structure's Actual Cash Value.

New Construction - Structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Manufactured Home Subdivision - A manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain regulations adopted by the community.

Recreational Vehicle - A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway - see definition for "Floodway".

Sheet Flow Area - see definition for "Area of Shallow Flooding".

Special Flood Hazard Area (SFHA) - The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. SFHAs include, but are not necessarily limited to, the land shown as Zones A, A1-30, AE, AO, AH, and the Coastal High Hazard Areas shown as Zones V, V1-30, and VE on a FIRM. The SFHA is also called the Area of Special Flood Hazard.

Start of Construction - For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure - A walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

Substantial Damage - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - Any combination of repairs, reconstruction, rehabilitation, alterations, additions or other improvements to a structure, taking place within any twelve (12) month period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure (§ 23-27.3-106.1). This term includes structures that have incurred "substantial damage", regardless of the actual repair work performed. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have

been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Variance - A grant of relief by a community from the terms of the floodplain management ordinance that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

Violation - Failure of a structure or other development to be fully compliant with the community's floodplain management ordinance. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

Adopted by the Tiverton Town Council 02-08-10.